

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Luke Petrinovic	Team: Squad #3	CCRB Case #: 201809617	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/17/2018 3:00 AM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 5/17/2020	EO SOL 1/1/2021	
Date/Time CV Reported Mon, 11/19/2018 9:14 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/19/2018 9:14 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Frank Vera	12899	935929	075 PCT
2. SGT Richard Polanco	03609	947361	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Bryan Harvey	09283	949090	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Frank Vera	Force: PO Frank Vera used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.SGT Richard Polanco	Abuse: SGT Richard Polanco forcibly removed § 87(2)(b) [REDACTED] to the hospital	[REDACTED]

Case Summary

On November 19, 2018, § 87(2)(b) filed this complaint over the phone with the CCRB.

On November 17, 2018, at approximately 3:00 a.m., § 87(2)(b) was at her home, apartment 14D of § 87(2)(b) in Brooklyn, which she shares with her elderly father. Her father needed medical attention, and so § 87(2)(b) called for EMTs. When the EMTs arrived at the location, § 87(2)(b) got into a dispute with them, and kicked one. The police were called, and PO Frank Vera and PO Bryan Harvey, of the 75th Precinct, responded to the scene. The officers arrested § 87(2)(b) Egroundina for striking the EMT, and took her out of the building. In the elevator coming down out of the building, PO Vera allegedly kicked § 87(2)(b) in the back of the legs (**Allegation A – Force:** § 87(2)(g)). Once outside of the building, the officers determined that § 87(2)(b) should instead be taken to a hospital for a psychiatric evaluation (**Allegation B – Abuse of Authority:** § 87(2)(g)). § 87(2)(b) was taken to § 87(2)(b) where she received a psychiatric evaluation and was released.

Body Worn Camera footage taken by PO Harvey recorded part of this incident.

Findings and Recommendations

Allegation (A) Force: PO Frank Vera used physical force against § 87(2)(b)

Allegation (B) Abuse of Authority: SGT Richard Polanco forcibly removed § 87(2)(b) to the hospital

§ 87(2)(b) (Board Review 01) stated that she had called 911 to have EMTs respond to her home because her grandfather had fallen. When the EMTs arrived, § 87(2)(b) prevented some of them from getting to him, believing that she was helping. § 87(2)(b) denied that she struck any of the EMTs. PO Vera and PO Harvey arrived at the scene, and spoke with both § 87(2)(b) and the EMTs. They then arrested § 87(2)(b) after one of the EMTs claimed that § 87(2)(b) had struck one of them. PO Vera handcuffed § 87(2)(b) and he and PO Harvey took her to the elevator. While inside the elevator, PO Vera allegedly kicked § 87(2)(b) in the back of the legs. § 87(2)(b) was placed in the back of a police vehicle, and then eventually an ambulance was called for her and she was taken to § 87(2)(b) where she received psychiatric care.

§ 87(2)(b) would not cooperate with the investigation in providing copies of her medical records, so the investigation was unable to determine what treatment she received and what her diagnosis was.

The investigation obtained a public incident safety report issued by the public safety department of the housing development where § 87(2)(b) lived. The report documents a statement by an EMT that she had been kicked by § 87(2)(b) while attempting to render aide to an AIDED male at the location (Board Review 02).

PO Vera (Board Review 03) and PO Harvey (Board Review 04) gave consistent testimony about the initial arrest of § 87(2)(b). They described responding to the scene, interviewing the EMTs who claimed that § 87(2)(b) had refused to allow them to treat the patient and struck one of them. Then the officers arrested § 87(2)(b) for obstructing governmental administration and assaulting the EMT. Both officers denied that § 87(2)(b) was physically resistant, and both officers denied that PO Vera ever kicked § 87(2)(b).

The body worn camera footage from PO Harvey begins in the elevator, at roughly the time § 87(2)(b) alleged that she was being kicked. It cannot be seen in the video whether PO

Vera kicked § 87(2)(b) but there is no indication that she is being kicked, there is no struggle, and § 87(2)(b) cannot be heard complaining that she has been kicked. Later in the footage, PO Harvey and § 87(2)(b) can be heard discussing the allegation that she had kicked an EMT, with PO Harvey repeating that the EMTs had claimed § 87(2)(b) assaulted them (Board Review 05).

SGT Polanco (Board Review 06), PO Harvey, and PO Vera also all gave consistent testimony about § 87(2)(b)'s removal to the hospital. They stated that § 87(2)(b) was an emotionally disturbed person as she had been acting irrationally in refusing to allow EMTs to treat her father, and was a threat to others in that she had attacked one of the EMTs. A relative of § 87(2)(b) who was also present, told the officers that she had a mental health history, and so SGT Polanco, with the concurrence of the EMTs on scene, decided to have her taken to a hospital for psychiatric care instead of arresting her for assault. PO Harvey and PO Vera went with § 87(2)(b) to the hospital, where the hospital staff confirmed that she had been admitted for psychiatric issues in the past.

§ 87(2)(g)

Under the provisions of Patrol Guide Procedure 221-13, officers should attempt to obtain medical attention for an individual who becomes emotionally disturbed, who is a person that is mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others (Board Review 12).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
 - PO Vera has been a subject in twenty prior allegations of misconduct across thirteen cases during his fourteen-year tenure with the NYPD, none of which were substantiated. Nine of the allegations against PO Vera concerned physical force (Board Review 08).
 - SGT Polanco has been a subject in nine previous allegations of misconduct across five prior cases during his ten-year tenure with the NYPD, none of which were substantiated.
- § 87(2)(g)
- (Board Review 09).

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.

Page 3

CCRB Case # 201809617

- No Notice of Claim regarding this incident has been filed with the City of New York as of April 26, 2019 (Board Review 10).
- According to the Office of Court Administration, § 87(2)(b) has no history of criminal convictions in New York City (Board Review 11).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date